

Consent Decree 7:16-cv-00462-GEC
United States, et. al. vs. Southern Coal Corporation & Affiliates
Quarterly Report for period ending June 30, 2018
On behalf of Southern Coal Corporation & Affiliates

As per the Consent Decree between the United States of America, the State of Alabama, the Attorney General of Alabama, Alabama Department of Environmental Management, the Commonwealth of Kentucky, Energy and Environment Cabinet, the State of Tennessee, the Attorney General and Reporter of Tennessee, and the Commonwealth of Virginia, and Southern Coal Corporation, Justice Coal of Alabama, LLC, A & G Coal Corporation, Four Star Resources LLC, Infinity Energy, Inc., Kentucky Fuel Corporation, Sequoia Energy, LLC, Virginia Fuel Corporation, National Coal, LLC, Premium Coal Company, Incorporated, S and H Mining Inc., Airway Resources, L.L.C., Baden Reclamation Company, Black River Coal, LLC, Chestnut Land Holdings, LLC, Meg-Lynn Land Company, Inc., Nine Mile Mining, Inc., Cane Patch Mining Co., Inc., Bluestone Resources, Inc., Dynamic Energy, Inc., Greenthorn, LLC, Justice Highwall Mining Inc., National Resources, Inc., Nufac Mining Company, Inc., Pay Car Mining, Inc., Second Sterling Corp., and Newgate Development of Beckley LLC, the following quarterly report is provided (capitalized terms herein shall have the meanings ascribed to them in the Consent Decree):

A. Information Regarding Any CWA Violation

(i) Summary of Effluent Limit Violations for 2nd quarter 2018

- There were ninety-one (91) Effluent Limit Violations on the associated NPDES permits for the facilities. These violations consisted of forty-three (43) Daily Violations and forty-eight (48) Monthly Violations. Seven (7) of the Daily Violations were in-compliance in under 72 hours and did not result in category violations. Thirty-two (32) of the Daily Violations were Category 1 violations, and two (2) were Category 2 violations. Forty-four (44) of the Monthly Violations were Category 1 violations, and there were four (4) Category 2 violations. See **Table 1**.
- There was six (6) Outlets with consecutive Effluent Limit Violations of the same pollutant parameter. See **Table 1**.
- There was one (1) Outlet with Persistent Noncompliance Issues (three (3) or more Effluent Limit Violations of the same parameter in the preceding 12-month period). See **Table 2**.

(ii) Summary of Failure to Sample Violations for 2nd quarter 2018

- There were no Failure to Sample Events that occurred in 2nd quarter 2018.

(iii) Summary of Stipulated Penalties

- The total amount of Stipulated Penalties owed for the period is three hundred and twenty-two thousand dollars (\$322,000.00). See **Table 1**.

<i>Stipulated Penalty Summary - 2nd Quarter 2018</i>							
Type	Total #	Total # of Same Consecutive Exceedance	Total # of 3+ of Same Exceedance in Preceding 12 Month Period	Total # of Category 1 Violations	Total # of Category 2 Violations	Associated Stipulated Penalty	Additional Penalty for Persistent Non-Compliance
Daily Violation	43	2		34	2	\$ 92,000.00	\$ -
Monthly Violation	48	4	1	44	4	\$ 150,000.00	\$ 2,000.00
Quarterly Violation						\$ -	\$ -
Failure to Sample			N/A			\$ -	N/A
Total Violations	91	7	1	78	6	\$	244,000.00
<i>Stipulated Penalties - Accrued Daily</i>							
<i>Non-Compliance with Consent Decree 2nd Quarter 2018</i>							
1st - 14th day	04/14/18	04/16/18	3	\$ 3,000.00	Laboratories withheld data from database. Per section VII, paragraph 49 of the Consent Decree all laboratories must provide electronic transmittal of all DMR Sample results to the Database within 48 hours of completion of analysis.		
1st - 14th day	06/14/18	06/27/18	14	\$ 14,000.00			
Total Non-Compliance with Consent Decree			17	\$	17,000.00		
Total Stipulated Penalties 2nd Quarter 2018:						\$	261,000.00
3rd and 4th Quarter 2017 Outfall Inspection Stipulated Penalties						\$	61,000.00
Total Stipulated Penalties Due for 2nd Quarter 2018:						\$	322,000.00

*For the purposes of this document, a blank cell represents 0 violations.

Table 1.

<i>Outlets with Persistent Non-Compliance - 2nd Quarter 2018</i>									
NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1018965	S400900	010	06/29/18	07/18/18	Total Aluminum	0.0800	0.0885	Monthly	1
<i>Exceedances from Preceding 12 Months</i>									
WV1018965	S400900	010	12/30/16	01/06/17	Total Aluminum	0.0800	0.1655	Monthly	1
WV1018965	S400900	010	04/30/17	05/08/17	Total Aluminum	0.0800	0.0938	Monthly	1
WV1018965	S400900	010	06/30/17	07/06/17	Total Aluminum	0.0800	0.1339	Monthly	1

Table 2.

(iv) Summary of Additional CWA/SMCRA Violations

- See **Attachment A.** For more details.

(v) Summary of Remedial Steps Taken or Planned for Violations in (i) and (ii) above

During the period, the following remedial actions were initiated to address the Effluent Limit Violations identified above:

- Daily monitoring began the date of the Violation notification.
- The pond associated with the Outlet was cleaned.
- Treatment was applied as needed.
- The Outlet was brought back into compliance.
- See **Attachment B.** and **Attachment C.** for details specific to each effluent limit violation.

During the period, the following remedial actions were initiated to address the Failure to Sample Violations identified above:

- There were no Failure to Sample Events that occurred in 2nd quarter 2018.

During the period, the following remedial actions were initiated to address the Persistent Non-compliances identified above:

- Daily monitoring began the date of the Violation notification.
- In process of consulting with CWA compliance and treatment systems expert.
- See **Table 2.** For details specific to each persistent non-compliance.

During the period, the following remedial actions were initiated to address the CWA/SMCRA Violations:

- See **Attachment A.** for specific violations and remedial actions taken.

(vi) Copy of the Violation Database Entries for the relevant quarter

- See **Attachment A.** for 2nd quarter 2018 CWA/SMCRA Violations
- See **Attachment B.** for 2nd quarter 2018 Effluent Limit Violations
- See **Attachment C.** for responses to 2nd quarter 2018 Effluent Limit Violations
- See **Attachment D.** for 09/30/17 – 09/30/18 Effluent Limit and Failure to Sample Violations
- Copies of All Violation Documents (CWA/SMCRA, Effluent Limit, and Failure to Sample) and Completed Environmental Audits and Treatment System Audits are located on the publicly available database for Southern Coal Corporation.
 - www.southerncoalcorporation.droppages.com

B. Summary of Incomplete Audit Responses

- No Incomplete Audit Responses occurred 2nd quarter 2018.
- The EMS Audit Response and Action Plan was completed and submitted with the 4th quarter 2017 quarterly report. EPA's comments on EMS Audit Response and Action Plan have not yet been received. Once EPA comments are received, a response will be submitted within 30 days from receipt date.

C. Documentation of Training Sessions Pursuant to Paragraph 60

- Annual Consent Decree Training & Annual EMS Procedure Training will be conducted in 3rd quarter 2018.

D. Certification of Material Conformance

I hereby certify that activities at Southern Coal Corporation and Affiliates facilities are in material conformance with the elements of the approved EMS manual relating to the Applicable Law addressed by the Consent Decree.

E. Status of Consent Decree Implementation

See **Attachment E.** SCC Consent Decree Obligation Tracking

F. Other Non-Compliances with This Consent Decree

- There were two (2) instances of Non-Compliance with Consent Decree that occurred for a combined total of seventeen (17) days during 2nd quarter 2018. Please see **Table 1** for the associated stipulated penalties. Effluent Water Data was not submitted electronically by contracted laboratories to Southern Coal Corporation within 48 hours of completion of analysis during the following dates:
 - April 14, 2018 – April 16, 2018 (2 Days of Non-Compliance with Consent Decree in 1st -14th day penalty range)
 - June 14, 2018 – June 27, 2018 (1 Day of Non-Compliance with Consent Decree in 1st -14th day penalty range)
- No Instances of Non-Compliance with Reporting Requirements
- There were two (2) instances of Non-Compliance with Outlet Inspection Requirements in 4th quarter 2017 and 1st quarter 2018 that were not previously included with quarterly reports. Please see **Table 1** for the associated stipulated penalties. Both were instances of failure to address outfall inspection deficiencies within 30 days, please see **Table 3** for more details.

Non-Compliant Outfall Inspection Deficiencies Not Addressed Within 30 Days of Notice											
State	NPDES	SMCRA	Outfall	Sample Date	Notification Date	Parameter	Deadline	Date Addressed	Action Taken	Number of Days not Addressed Past 30 Days	Stipulated Penalty for Days Not Addressed (Past 30 Days)
KY	KYGE40840	8485463	001	09/07/17	09/08/17	Sediment Buildup	10/08/17	12/05/17	Sediment removed. Pond capacity restored.	58	\$ 58,000.00
VA	VA0082047	1302047	005	12/21/17	12/22/17	Erosion/Other Damages	01/21/18	01/24/18	Need equipment mobilized to correct.	3	\$ 3,000.00

Table 3.

G. Decree Violation Subject to an Unresolved Force Majeure Claim

Not applicable.

H. Certification Pursuant to Paragraph 79

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Mark Wooten
Chief Engineer

Date

Bill Johnson
Chief Engineer

Date